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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,789	04/26/2001	JJ Garcia-Luna-Aceves	5543P002	3362

7590 09/27/2007  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
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Los Angeles, CA 90025-1026

EXAMINER
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STRANGE, AARON N

ART UNIT	PAPER NUMBER
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2153

MAIL DATE	DELIVERY MODE
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09/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/843,789

Applicant(s)

GARCIA-LUNA-ACEVES ET AL.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-28 and 30-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-28 and 30-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :20050611; 20070412; 20070629; 20070702.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see pp. 8-12, filed 6/29/07, with respect to claims 1-3, 5-28 and 3-37 have been fully considered and are persuasive. The rejection of those claims under 35 U.S.C. §103 has been withdrawn.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 of U.S. Patent No. 7,162,539 in view of Jordan et al. (US 6,438,652) and Zisapel et al. (US 6,249,801).

Jordan and Zisapel disclose a substantial portion of claim 1 (See Office Action of

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1/8/2007), but fail to disclose that determining one or more information object repositories includes mapping an address of the client to an address of a selected repository based on a Web Information Locator by Distance (WILD) protocol. U.S. Patent No. 7,162,539 discloses and claims a WILD protocol for mapping clients to information object repositories (web caches) by specifying the best distances known from the clients to the web caches.

This would have been an advantageous addition to the claim 1 of the present application since it would have mapped clients to web caches the "best" distance away, providing clients with superior service. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine such a feature with the teachings of Jordan and Zisapel to arrive at the presently claimed invention.

4. If Applicant is aware of any other applications or patents that claim subject matter relating to the WILD protocol or contain claims similar to any claim of the present application, Applicant is respectfully requested to identify those applications or patents.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-3, 5-28 and 30-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. With regard to claim 1, the limitation "the information repository selected according to load" in lines 6-7 has insufficient antecedent basis. There is no prior mention of a "selected" repository in the claim. For the purpose of applying prior art, this has been interpreted as the repository determined in the "determining one or more ... repositories" portion of the claim.

8. With further regard to claim 1, the limitation "the information object repository" in lines 14-15 has insufficient antecedent basis. It is unclear which information repository this is intended to refer to. For the purpose of applying prior art, it has been interpreted as referring to the "selected information object repository" in line 13.

9. With further regard to claim 1, the limitation "wherein the information object repository delivers the content to the client" in lines 14-15 is unclear. Lines 5-6 of the claim suggest that the information object including the content may not be at the information object repository, so it is unclear how it may deliver the content to the client.

10. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

***Allowable Subject Matter***

11. The subject matter of the present claims appears to be allowable, if the language of the claims is amended for clarity. In the interest of expedited prosecution, the Examiner recommends scheduling an interview to discuss proposed amendments to the claims prior to filing a response to the present application. Applicant is encouraged to prepare a proposed amendment addressing the above identified issues, as well as any other amendments which may clarify the claims, and contact the Examiner to schedule an interview to discuss the proposal.

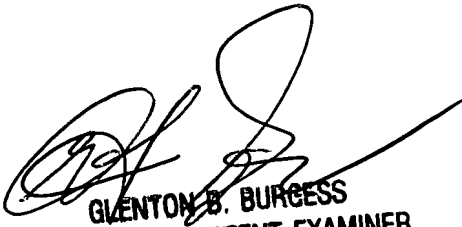
**Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS 9/21/07

  
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